

To: CN=Steven Neugeboren/OU=DC/O=USEPA/C=US@EPA[]
Cc: []
Bcc: CN=Peter Ornstein/OU=R8/O=USEPA/C=US[]
From: CN=Mary Grady/OU=DC/O=USEPA/C=US
Sent: Fri 6/15/2012 1:04:09 PM
Subject: Water Law News for June 15, 2012

[Chesapeake Appalachia Reaches Agreement With N.Y. Attorney General to Reopen Leases](#)
[State Department Plans Supplemental Review On Keystone Pipeline's Environment Impacts](#)
[Interior Says Rule on Coal Ash Use In Mining Reclamation Forthcoming](#)
[Senate Leaders Fail to Reach Agreement On Amendments to Farm Bill, Delay Vote](#)
[Environmental Streamlining Pushes Apart Transportation Conferees as Deadline Nears](#)
[EPA Releases Post-Construction Guidance For Monitoring Combined Sewer Overflows](#)
[EPA Says Drinking Water Source Protection Allowed Under Integrated Planning Approach](#)
[California Coalition Urges Interior to Block Canal or Tunnel to Divert Water From Delta](#)
[InsideEPA.com - Latest News](#)

[As Demand Grows, EPA Steps Up Risk Study Of 'Rare Earth' Production](#)
[study](#)

[Greenwire](#)

[letter](#)

[Greenwire](#)

[Land Letter](#)

[Land Letter](#)

[Greenwire](#)

[documents](#)

[response](#)

[AP/Fuel Fix](#)

[People: Comings and Goings](#)

[New Orleans Times-Picayune](#)

[Read the full edition](#)

- [1. RENEWABLE ENERGY: China's offshore wind program is beached by interagency disputes](#)
- [2. NEGOTIATIONS: Fights over technology transfer, green development funds cloud Rio+20 talks](#)
- [3. SCIENCE: Acidic currents put Pacific oyster industry in peril](#)
- [4. BUSINESS: Shipping sector's emissions could drop as companies seek savings and efficiency](#)
- [5. BUILDINGS: More property owners concerned with energy efficiency -- report](#)
- [6. POLICY: U.S. military service brass lead charge for Law of the Sea ratification](#)
- [7. COAL: 2 utilities stay committed to gasification](#)
- [8. NEGOTIATIONS: E.U. reaches agreement over energy savings text after months of debate](#)
- [9. EMISSIONS: European Commission to set tougher CO2 standards for vans](#)
- [10. NATIONS: Singapore announces national climate change strategy](#)

[Read full edition](#)

- [1. PIPELINES: Do increasing oil flows open door to more spills?](#)

[Go to story #1](#)

- [2. AFRICA: Exxon, Statoil announce massive gas finds off Tanzania coast](#)
- [3. NATURAL GAS: N.Y. reaches deal with Chesapeake on lease renewals](#)
- [4. COURTS: In Shell case, Obama questions role of U.S. courts in human rights cases](#)
- [5. TECHNOLOGY: Fracking without water could be next big thing in drought-prone areas](#)
- [6. WYOMING: Regulator resigns after comment that 'greed' motivates critics in Pavillion](#)
- [7. OIL AND GAS: N.C. fracking bill clears House](#)
- [8. BUSINESS: Shell extends offer to buy Cove Energy, Africa assets](#)
- [9. OIL AND GAS: OPEC to maintain production ceiling, will revisit if prices drop](#)
- [10. PIPELINES: Canada seeks alternatives to Keystone XL](#)
- [11. RUSSIA: Rosneft turns to Exxon Mobil to help frack Siberian play](#)
- [12. OHIO: State officials wind down land inventory effort](#)

[\(embedded image\)](#)

[\(embedded image\)](#)

[\(embedded image\)](#)

(embedded image)
(embedded image)
(embedded image)

WATER LAW NEWS JUNE 15, 2012

HIGHLIGHTS

Drilling

Chesapeake Appalachia Reaches Agreement
With N.Y. Attorney General to Reopen Leases

NEW YORK—Chesapeake Appalachia LLC has agreed to allow landowners in the Marcellus Shale areas of upstate New York to renegotiate thousands of natural gas leases that locked them into unfavorable terms, state Attorney General Eric...

Energy

State Department Plans Supplemental Review
On Keystone Pipeline's Environment Impacts

The State Department plans to conduct a formal environmental review for the northern segment of the Keystone XL crude oil pipeline that would extend from the U.S.-Canadian border at Phillips, Mont., to Steele City, Neb....

Mining

Interior Says Rule on Coal Ash Use
In Mining Reclamation Forthcoming

The Office of Surface Mining, Reclamation, and Enforcement is preparing to issue a proposed rule on the use of coal ash in mining reclamation "sometime this year," an agency spokesman told BNA June 13....

Natural Resources

Senate Leaders Fail to Reach Agreement
On Amendments to Farm Bill, Delay Vote

The fate of environmental amendments to the farm bill remained uncertain June 14, with the Senate postponing votes as leaders continued to work toward an agreement on how to proceed with the legislation....

Transportation

Environmental Streamlining Pushes Apart
Transportation Conferees as Deadline Nears

Environmental streamlining language continued to drive a wedge between congressional transportation conferees June 14 with only weeks left before the deadline to finalize a reauthorization bill....

Water Pollution

EPA Releases Post-Construction Guidance
For Monitoring Combined Sewer Overflows

The Environmental Protection Agency has released guidance to help communities with combined sewer systems to develop post-construction compliance monitoring programs....

Water Pollution

EPA Says Drinking Water Source Protection
Allowed Under Integrated Planning Approach

The Environmental Protection Agency's Clean Water Act integrated planning approach will allow municipalities to consider protection of drinking water sources from pollutants discharged by wastewater

and stormwater, an agency official...

Water Resources

California Coalition Urges Interior to Block
Canal or Tunnel to Divert Water From Delta

LOS ANGELES—A coalition of environmental, fishing, consumer, Native American, and other groups June 13 asked the Obama administration to block California from building a tunnel or canal around the Sacramento-San Joaquin Delta as...

As Demand Grows, EPA Steps Up Risk Study Of 'Rare Earth' Production

EPA is expanding efforts to study risks of so-called "rare earth" elements (REE) and related mining and recycling activities for the critical materials used in scores of electronic and renewable energy technologies given a growing push by policymakers to increase domestic production of the strategically critical materials.

WATER POLLUTION:

Discharges from coalbed methane projects pose threat to aquatic life -- USGS

Paul Quinlan, E&E reporter

Published: Thursday, June 14, 2012

Wastewater produced by extracting natural gas from coal seams may contain a certain salt at concentrations toxic to aquatic life, according to a study released today by the U.S. Geological Survey.

The study focused on the toxicity of sodium bicarbonate -- a major component of water from coalbed gas production in the Tongue and Powder river basins in Montana and Wyoming.

The toxicity data could apply to other watersheds where sodium bicarbonate is found in wastewater from coalbed gas extraction or other forms of oil and gas development, the study says.

The data could be useful in eventually setting numeric limits for how much can be discharged into waterways.

Formerly considered a coal mine safety hazard, coalbed natural gas, or coalbed methane, has become an increasingly significant part of the nation's energy portfolio, accounting for about one-twelfth of U.S. natural gas production, according to the Department of Energy.

It's expected to become even more important as demand for natural gas grows.

But the water produced from the extraction can, when discharged in large amounts to freshwater streams and rivers, harm fish and other aquatic species.

"Methane gas associated with coal deposits, once viewed as a nuisance hazard, is now being produced as a valuable resource, an important part of achieving our energy independence," USGS Director Marcia McNutt said in a statement. "But new methods of energy production can also bring new risks to the environment that have not yet been evaluated or quantified."

Companies may dispose of produced water in several ways, including direct discharges, treatment followed by discharge, deep-well injection, drip irrigation and capture in evaporation ponds.

The study included multiple field and lab experiments involving a variety of fish, invertebrates and amphibians.

Aquatic species tested had difficulty surviving in waters containing sodium bicarbonate at levels ranging from 1,120 milligrams to more than 8,000 mg of sodium bicarbonate per liter, with results varying by species and age.

Chronic toxicity was observed at concentrations that ranged from 450 mg to 800 mg of sodium bicarbonate per liter, dependent on the sensitivity of the species of invertebrates and fish exposed. The Tongue River has a natural baseline of about 280 mg of sodium bicarbonate per liter.

The study, whose findings were announced today by USGS, was prepared in cooperation with Montana Fish, Wildlife and Parks; the Bureau of Land Management; and U.S. EPA.

EVERGLADES:

U.S., Fla. strike \$880M deal for cleaning up water pollution

Paul Quinlan, E&E reporter

Published: Thursday, June 14, 2012

Florida has for years resisted pressure from the federal government and environmentalists for an expanded effort to clean up polluted water flowing into the Everglades from farm fields.

The state sought to roll back cleanup deadlines, balked at proposals for tightening water quality standards and refused to expand its network of pollution-filtering marshes at the edge of the sprawling Everglades Agricultural Area.

But yesterday, the state and federal governments agreed at last on Florida's plan for cleaning up the renowned wetland.

The state committed to spend \$880 million dollars on projects designed to reduce farm and urban pollution flowing into the sprawling River of Grass, an ecological treasure that also supplies water to more than 7 million south Floridians.

The deal also grants the state another decade to complete its projects, which has prompted grumbling among some environmentalists.

The agreement ends seven months of negotiations that began when Gov. Rick Scott, a Republican whose opposition to Everglades restoration early in his term coincided with dismal approval ratings, embraced the project.

The push began in September 2010 with an order from U.S. District Judge Alan Gold demanding that U.S. EPA force Florida to act on long-stalled cleanup plans.

EPA hit Florida with a \$1.5 billion proposal that included doubling the size of pollution-filtration marshes to more than 100,000 acres and correcting "deficiencies" in monitoring and reporting levels (Greenwire, Sept. 8, 2010). EPA also threatened to take over water-pollution permitting.

Last October, Scott flew to Washington, D.C., to deliver the state's counteroffer to Interior Secretary Ken Salazar. That counter, Scott said, would make more sense for taxpayers. One federal official estimated the governor's initial plan would have cost about \$500 million to carry out.

The state's commitment to spend \$880 million on its new EPA-approved plan was the result of seven months of negotiations that ensued after Scott's trip to Washington.

It also keeps primary enforcement authority in the hands of the state, heading off an EPA takeover of water quality permitting -- a priority for Scott.

The Florida Department of Environmental Protection -- as opposed to federal officials -- will issue an enforcement order against the South Florida Water Management District, which manages Everglades restoration for the state, requiring that the terms of the deal be carried out.

"This collaboration has brought us to a momentous turning point in Everglades restoration, and I know we are all eager for the work in the State's plan to begin," Gwendolyn Keyes Fleming, EPA's Southeast Region administrator, wrote in a letter yesterday to Florida Department of Environmental Protection Secretary Herschel Vinyard Jr.

The plan calls for adding another 6,500 acres of pollution-filtering marshes to the 60,000 acres already in place or under construction. It calls for building new "flow equalization basins" intended to provide a steady flow of water to the treatment marshes, which have largely underperformed because of flow issues.

The plan also calls for another 110,000 acre-feet of water storage on about 19,000 acres.

Vinyard touted Scott's newfound commitment to a restored Everglades in a statement.

"Gov. Scott recognizes both the environmental and economic importance of a healthy Everglades, which is why he made Everglades restoration a top priority for the state. Thanks to EPA's expeditious review of our revised permit, we are moving forward on a comprehensive plan that is in the best interest of the Everglades and Florida's taxpayers."

The state-federal water quality agreement comes as state and federal officials press forward on a parallel effort to fast-track key Everglades restoration projects and revise the massive state-federal plan that Congress approved in 2000 to boost the flow of water through the central Everglades (Greenwire, Oct. 27, 2011).

To that end, state and federal officials have been meeting about twice a month since November and hosting public workshops. Both state and federal officials will face a challenge in finding the money to carry out both water quality and restoration plans going forward, although supporters of the recent efforts were optimistic, citing the strong commitment from both the Scott and Obama administrations.

"We believe that it may be possible in the future to move the timetable forward if consensus is reached on additional funding," said Eric Draper, Audubon Florida's executive director, in a statement.

WATER:

Future of Ariz. desalting plant, major Mexican wetland unclear after test run

April Reese, E&E reporter

Published: Thursday, June 14, 2012

YUMA, Ariz. -- Along the dusty hem of the U.S.-Mexico border, the Yuma Desalting Plant has come to symbolize the region's unquenchable thirst.

The \$211 million plant is surrounded by a mosaic of farm fields, a few dormant and brown, many astonishingly green against the desert flatlands, brought to life by Colorado River water diverted via an extensive irrigation system that has helped make Yuma -- as a sign near downtown says -- "the winter lettuce capital of the world."

On a recent 112-degree afternoon, pigeons flitted across an empty open-air treatment tank at the idle water plant and a hawk brought in years ago to control the pigeons kept watch from a tower.

The Yuma Desalting Plant was built in 1992 to treat saline farm runoff to help the United States comply with treaty obligations for delivering good-quality Colorado River water to Mexico, but the plant has stood idle for most of its 20-year existence. Photo courtesy of Bureau of Reclamation.

And this is how the plant has passed most of its 20 years. Built in 1992 to treat saline agricultural return flows from an irrigation system that waters fields in the next valley, the plant was aimed at helping the United States comply with treaty obligations to deliver 1.5 million acre-feet of good-quality Colorado River water to Mexico. There are 325,851 gallons in an acre-foot, a year's supply for a family of four.

But a flood damaged the plant soon after its construction, and the 1990s turned out to be banner years for Colorado River flows, diluting the salty runoff and making the plant unnecessary.

"No sooner did they have the plant than they had some of the fattest water years ever on the river," said Doug Hendrix, a spokesman for the federal Bureau of Reclamation.

The 21st century has brought prolonged drought and dire climate change predictions for the Southwest, prompting new interest in the plant from the region's cities. Several studies, including one by the U.S. Center of the Stockholm Environment Institute last year, predict shrinking water supplies in the Southwest over the coming decades (Land Letter, Feb. 24, 2011).

So after a brief test run in 2007, Reclamation decided two years ago to give the plant a workout, running it at one-third capacity for almost a year, ending in March 2011.

By all accounts, the trial run was successful, treating 29,000 acre-feet of irrigation runoff ahead of schedule. Reclamation had allowed 12 to 18 months for the run to accommodate potential down time for maintenance, but the operation ran smoothly and achieved the agency's treatment goal six weeks early (Land Letter, April 7, 2011).

"The plant never shut down," plant manager Mike Norris said. "It performed much better than anticipated."

While the amount of water the desalting plant can treat is small, every drop that can be sent to Mexico from treated irrigation runoff is a drop that can be kept upstream in Lakes Mead and Powell to supply Las Vegas, Phoenix and other cities. Currently, those reservoirs release the water needed to meet the U.S. obligation to Mexico.

The amount of treated water released into the river during the yearlong trial run was enough to supply the needs of about 116,000 people for one year.

Should the plant be resurrected permanently? Almost everyone involved with the plant's pilot run says it is too early to make that call. For one thing, running the desalting plant is expensive -- the pilot cost \$23 million -- and it would likely cost \$55 million to run the plant at full capacity. It is unclear who would pick up the tab.

"That's a big number for us," said Jennifer McCloskey, manager of Reclamation's Yuma office. "It would be tough to absorb in Reclamation's budget."

Southwestern cities and other water users paid most of the cost of the trial run. But they may not be willing to pay for its extended operation, which would require a hefty long-term investment.

Technologically, the plant -- the largest desalting facility in the United States and the second-largest in the world -- appears to be in good enough shape to operate on a long-term basis, Norris said.

"When the Yuma Desalting Plant was built, it was ahead of its time," he said, looking out over the warehouse-like desalting chamber, stacked with 12-inch membrane cylinders.

The plant puts water through an extensive pretreatment process to remove debris, silt and contaminants before it enters the desalting chamber and flows through the membranes.

"It's like a toilet-paper roll," he said of the cylinders. "We spin it, and it comes out the center."

'Environmental water'

A big question for environmentalists is how full-time operation of the plant would affect a 40,000-acre wetland known as the Cienega de Santa Clara in Mexico that was revived by irrigation return flows that bypass the plant.

The cienega -- originally part of a larger complex of wetlands in the Colorado River Delta -- all but dried up after Hoover and Glen Canyon dams were built in 1936 and 1963, respectively. Irrigation farther south diverted water to California's Imperial Valley and southern Arizona.

But the influx of runoff after the Wellton-Mohawk Irrigation and Drainage District canals were built near Yuma to bypass the lower Colorado River expanded the wetland. It has become an important stop for migratory birds. In all, about 95 species of birds, including the endangered Yuma clapper rail, the Southwest willow flycatcher and a type of desert pupfish, now rely on the cienega for habitat.

"Before all the upstream diversions, that whole area was marshland," said Karl Flessa, a professor of geosciences at the University of Arizona in Tucson who has been studying the cienega. "This is an accidental re-creation. When dumping the water, no one set out to create this terrific habitat. It just happened."

The cienega, which is just a few miles south of the border, has spurred a growing ecotourism industry.

About 25 percent of the flow that feeds the wetland was diverted to the plant during the pilot project, but much of that water was replaced under a binational agreement. Under the accord -- unprecedented in its collaboration across two countries and among both public and private entities -- the United States, Mexico and environmental groups, through water rights purchases from Mexican farmers, provided about 10,000 acre-feet of water each to make up for what the plant used. The U.S. portion came from overflows during storms, McCloskey said.

"We were depending on conditions in the river, because it was opportunistic," she said, sitting at the kitchen table of her home on the outskirts of Yuma. "I wanted to take advantage of these opportunities as they happened. I got with the staff and pressed the issue."

The wetland typically receives about 107,000 acre-feet of agricultural runoff water per year, but while the plant was operating during the test run, it lost about 25 percent of those flows. All the replacement water was successfully delivered, although it came in pulses rather than in consistent flows, according to a delivery chart McCloskey shared from a forthcoming report on the test run to be released soon by Reclamation.

That delivery blueprint could provide an example for water managers and environmental groups who are trying to ensure some water is allocated to environmental uses, she added.

"The buzz word these days is 'environmental water,'" she said. "The lesson for anyone that's been managing water is, 'Be flexible. Take advantage of the supply as it becomes available. Mother Nature is unpredictable.'"

The flexible time frame in the agreement for the cienega allowed all of the parties involved to move the water when there was enough in the system, and that is why the delivery plan was successful, she said.

Researchers from the University of Arizona monitored the wetland before, during and after the pilot run. Their report, which is completed but still awaits approval by Mexico, is due out within the next two weeks.

While the authors of the binational monitoring report and those familiar with it declined to discuss its contents in detail, since it hasn't been officially released, Francisco Zamora Arroyo, director of the Sonoran Institute's Colorado River Delta program, said the wetland appears to be in good shape.

"The results of the monitoring effort will be published soon, but what I can say after the [desalting plant] pilot run and after recently flying over the ciénega is that the ciénega is in good condition," he said in an email.

During the trial run, the cienega was hit by an earthquake, which changed the elevation in parts of the wetland, and a fire, which scorched vegetation. At the same time, the wetland saw changes in the amount of water coming in and when it arrived, due to the intermittent delivery of replacement water.

But "overall, the ciénega showed to be a resilient ecosystem," Zamora said.

The wetland's vegetation recovered fairly rapidly after the fire, added Jennifer Pitt of the nonprofit Environmental Defense, a key player in negotiating the environmental agreement. "It's amazing at how quickly it began to green up afterwards," she said. "It does seem like it came back very well after the fire."

All things considered, "the replacement water worked well," Pitt said. "The cienega appears to still be a healthy habitat in the delta, and probably the most significant habitat area in the delta at this point in time."

Cooperation counts

The success of the agreement is also a political triumph, Pitt said.

"It's the first time that any government made a dedicated delivery of water to an environmental resource in the delta, and they did it in cooperation with the water trust [which provided the water secured by environmental groups]," she said. "It's a really fantastic example of how these different players working together could come together to do good and ensure the viability of this important resource."

The University of Arizona's Flessa called the effort "a good example of where ... cooperation can get you."

"This is much better than tying things up in courts," Flessa said. "We have enough problems along the border. We don't need more problems."

With so many diversions upstream, the cienega is one of only a few small wetlands left in a delta that has largely been dewatered for decades. Protecting the cienega is part of a larger delta restoration effort by the Sonoran Institute, Environmental Defense, Mexico's Pronatura Noroeste and other organizations.

It remains to be seen whether the cienega could withstand a longer-term and likely higher-volume run of the plant -- and whether all the parties involved could or would ensure replacement deliveries for the cienega. The plant can run at a third to full capacity.

"If they were to run the plant at full capacity, it would not only cut back on the volume of delivery; it would also increase the salinity" of water going into the cienega, Pitt said. "It's hard to predict what would happen. It's somewhat intuitive to say there would be major impacts to the cienega, but we just don't know."

Cattails, which constitute most of the vegetation in the cienega, stop growing when the salinity reaches more than 6 parts per thousand, Flessa said. Salinity levels of water entering with the plant in operation, without replacement water, would likely be higher.

Complicating matters is the newly completed Brock Dam, the latest diversion structure on the lower Colorado River system, which funnels water on a tributary of the mainstem river to the Imperial Irrigation District in Southern California. The dam, which did not exist during the pilot run, could make it more difficult to send replacement water to Mexico during plant operations, McCloskey said.

Whatever the future holds for the desalting plant, McCloskey, for one, is optimistic that the cienega will continue to receive water, despite the challenges that inevitably would arise in figuring out where to find it were the plant to come back online full-time.

"I think we have a good example that we've been able to build relationships and demonstrate that the deliveries can occur," she said.

Flessa agrees. "We've built up goodwill along the border on water issues," he said.

It is possible to have both a fully operating plant and a healthy cienega -- particularly if brackish groundwater from the Yuma area could be used to supply the plant instead of irrigation water, he said.

"That that would be a great solution," Flessa said.

Reese writes from Santa Fe, N.M.

EPA:

IG says agency's oversight of state regulatory programs continues to fall short

Jeremy P. Jacobs, E&E reporter

Published: Thursday, June 14, 2012

U.S. EPA has not satisfied concerns surrounding its oversight of state regulatory programs raised by a December audit, the agency's inspector general said in documents released yesterday.

In a particularly pointed report, the Office of Inspector General said in December that EPA's enforcement programs "frequently do not meet national goals" and that states "do not always take necessary enforcement actions."

"EPA does not consistently hold states accountable for meeting enforcement standards, has not set clear and consistent national benchmarks, and does not act effectively to curtail weak and inconsistent enforcement by states," the report said (Greenwire, Dec. 13, 2011).

EPA quibbled with OIG's methodologies in the report but agreed that state enforcement varies widely.

However, in documents released this week, OIG said EPA had satisfied only half of its recommendations in the report. As requested, EPA canceled outdated policy documents, established clear benchmarks for enforcement of several statutes including the Clean Air and Clean Water acts, and created a clear "escalation policy" for states that do not act to enforce those statutes.

But EPA did not address the OIG's first recommendation that the agency grant the Office of Enforcement and Compliance Assurance full authority for national enforcement resources so it can move swiftly and effectively when problems arise.

In response to that recommendation, EPA said it has issues with the proposal.

"EPA does not agree that centralizing resources and workforce allocation will address the concerns raised by the inspector general concerning the lack of national consistency in state performance and regional oversight," the agency said in a March 12 response. "This recommendation would not substantially change the control OECA has over the national workforce compared to what currently exists."

OIG said EPA has also not satisfied its recommendations to establish procedures to reallocate resources when needed and develop a state performance scorecard to track progress from year to year.

COAL:

Business, enviro groups seek to join EPA mine permit veto case

Manuel Quinones, E&E reporter

Published: Thursday, June 14, 2012

Several environmental and business groups have filed documents to join the appeals court battle between Arch Coal Inc. and the Obama administration over its veto of a large strip mining project in West Virginia.

At issue is whether it was legal for U.S. EPA to retroactively block key parts of an Army Corps of Engineers Clean Water Act permit for Arch's Spruce No. 1 mine. U.S. District Court Judge Amy Berman Jackson for the District of Columbia ruled this year that the agency went too far.

And several groups are asking the U.S. Court of Appeals for the District of Columbia to let the ruling stand. They include the National Mining Association, the American Farm Bureau Federation, the American Road and Transportation Builders Association and the U.S. Chamber of Commerce.

The groups think letting EPA's veto stand could set dangerous precedent for the permitting process. They fear a government able to scrap approvals years after they are issued.

"This case is about the rule of law and regulatory certainty and the type of regulatory regime that the law allows for and that we wish to have in the United States," Karen Harbert, head of the chamber's energy institute, said at a recent hearing. "Even more fundamentally, the outcome of this case will signal whether America is open for business and safe for long-term investment."

United Co., which owns the coal that Arch would mine and stands to gain from seeing operations commence, also filed documents to intervene.

"If the EPA's revocation is upheld," company attorneys wrote in papers filed yesterday, "it will cause most mining operations previously authorized under the permit to grind to a halt, resulting in incalculable losses to United Co., which most conservatively are estimated at this point in time to be in the hundreds of millions of dollars range."

On the other side are environmental groups that defend EPA's ability to act to prevent unacceptable pollution. Several, including the Sierra Club, the Natural Resources Defense Council, the West Virginia Highlands Conservancy, Coal River Mountain Watch and the Ohio Valley Environmental Coalition, have filed papers to intervene in the appeals court process.

"This is a very important case because it involves EPA's basic authority under the Clean Water Act to protect waters," Earthjustice attorney Emma Cheuse said in an interview. "EPA is on firm ground to recognize its ability to protect waters before a permit is allowed or after a permit is issued."

Almost 40 groups, including mining associations from Alaska and Colorado and the Fertilizer Institute, intervened in some way as the case made its way through district court.

Last month, Arch and EPA agreed to an expedited schedule for filing documents in the appeals process, which means that no mining operations will commence under the disputed permit for now.

In West Virginia, U.S. District Court Judge Robert Chambers this month reopened a parallel case, not on EPA's action but on the

merits of the Army Corps permit. That case had been dormant pending the outcome of litigation surrounding the veto.

GULF SPILL:

Actors' spat over cleanup device continues in court

Published: Thursday, June 14, 2012

Actor Stephen Baldwin threatened to reveal personal information about actor Kevin Costner to The New York Times if they couldn't find a solution to a financial dispute over a company that sold oil-cleanup devices, one witness testified in federal court. Scott Smith, CEO of a company that makes foam to repel water and absorb oil, said Baldwin made the remark during a car ride in Louisiana in November 2010. Smith said he did not know if Baldwin followed through on the threat, and he would not speak of the information Baldwin was threatening to divulge. Smith had hired Baldwin as a spokesman for his company, Opflex Solutions.

"I said, 'Stephen, that's blackmail,'" Smith recalled.

He testified that Baldwin said, "I have to be careful how I do it."

Baldwin and friend Spyridon Contogouris are contending in a lawsuit against Costner and business partner Patrick Smith that the two tricked them into selling off their company shares just before a BP PLC contract went through. Baldwin said he would have received much more for his shares of Ocean Therapy Solutions had he been aware of BP's \$18 million deposit on a \$52 million order.

The trial started last week. It could conclude as early as today (AP/Fuel Fix, June 14). -- WW

PEOPLE:

In new book, pay czar says previous experience didn't prepare him for oil spill job

Published: Thursday, June 14, 2012

The lawyer charged with overseeing the distribution of public compensation funds after the BP PLC oil spill in 2010 concedes in a new book that he was unprepared for the job.

"None of my prior assignments in designing and administering public compensation programs prepared me for the GCCF [Gulf Coast Claims Facility] experience," Kenneth Feinberg writes at the end of a chapter on his spill claims work.

"The BP oil spill taught me new lessons. Without political consensus and bipartisan support, which I benefited from in my earlier work, it is much more difficult to achieve success and secure public approval," he added. "The key fundamental ingredient of credibility is called into question. Claimant confidence in the program begins to waver."

BP and President Obama selected Feinberg for the task after he received good marks for his work administering the 9/11 Victims Compensation Fund and payments to Vietnam War veterans affected by Agent Orange. BP paid Feinberg and his law firm \$1.25 million a month to distribute the money, but some complained he was protecting BP's assets.

In the book, Feinberg is critical of his own actions -- referencing situations where he overpromised how quickly he could deliver emergency payments to spill victims.

"In meeting after meeting during the first weeks of the GCCF, I made the ridiculous public pledge that 'the GCCF will pay eligible individual claimants within forty-eight hours and eligible businesses within one week.' Talk about a self-inflicted wound!" Feinberg writes. "Underestimating the volume and complexity of the claims, I promised what I could not possibly deliver. As a result, the GCCF was immediately placed on the defensive."

His new book is called "Who Gets What: Fair Compensation After Tragedy and Financial Upheaval" (David Hammer, New Orleans Times-Picayune, June 14). -- WW

ClimateWire -- Fri., June 15, 2012 -- Read the full edition

1. RENEWABLE ENERGY: China's offshore wind program is beached by interagency disputes

SHANGHAI -- In 2011, when China unveiled its 2015 target for offshore wind development, it was an ambitious goal by any measure. But two years after China's first round of bidding for offshore wind farms took place, none of these projects has moved beyond the planning stage. The nation's second round of bids, which was expected to start in the first half of this year, is also delayed. While China has already built a few offshore wind farms as pilot projects, there is a strong desire to develop more.

2. NEGOTIATIONS: Fights over technology transfer, green development funds cloud Rio+20 talks

Negotiations over an outcome text to frame expectations at next week's sustainable development conference in Rio de Janeiro were tense yesterday, with disputes not resolved on international technology transfer and finance for green economies in the developing world, among a host of other issues.

TODAY'S STORIES

3. SCIENCE: Acidic currents put Pacific oyster industry in peril

4. BUSINESS: Shipping sector's emissions could drop as companies seek savings and efficiency

5. BUILDINGS: More property owners concerned with energy efficiency -- report

6. POLICY: U.S. military service brass lead charge for Law of the Sea ratification

7. COAL: 2 utilities stay committed to gasification

8. NEGOTIATIONS: E.U. reaches agreement over energy savings text after months of debate

9. EMISSIONS: European Commission to set tougher CO2 standards for vans

10. NATIONS: Singapore announces national climate change strategy

EnergyWire

TODAY'S EDITION: Friday, June 15, 2012 -- 08:59 AM Read full edition

1. PIPELINES:

Do increasing oil flows open door to more spills?

HOUSTON -- Drillers are clamoring for more pipelines as crude oil production climbs, in the hope they can find some relief from truck and rail transportation that has increased costs in the North American oil patch. To meet that demand, pipeline companies are boosting the capacity and flow on their pipeline systems, often by hundreds of thousands of extra barrels a day. Enbridge Inc. plans to expand oil flows through pipelines that feed Midwestern refineries by 280,000 barrels per day, and capacity is set to increase on pipelines operated by Kinder Morgan Inc. and Plains All American Pipeline LP. But does adding more crude oil to a pipeline increase the risk of a rupture or spill? Go to story #1

THIS MORNING'S STORIES

2. AFRICA:

Exxon, Statoil announce massive gas finds off Tanzania coast

3. NATURAL GAS:

N.Y. reaches deal with Chesapeake on lease renewals

4. COURTS:

In Shell case, Obama questions role of U.S. courts in human rights cases

5. TECHNOLOGY:

Fracking without water could be next big thing in drought-prone areas

6. WYOMING:

Regulator resigns after comment that 'greed' motivates critics in Pavillion

7. OIL AND GAS:

N.C. fracking bill clears House

8. BUSINESS:

Shell extends offer to buy Cove Energy, Africa assets

9. OIL AND GAS:

OPEC to maintain production ceiling, will revisit if prices drop

10. PIPELINES:

Canada seeks alternatives to Keystone XL

11. RUSSIA:

Rosneft turns to Exxon Mobil to help frack Siberian play

12. OHIO:

State officials wind down land inventory effort

Brought to you by the Office of General Counsel Law Library

d, among a host of other issues.

TODAY'S STORIES

3. SCIENCE: Acidic currents put Pacific oyster industry in peril

4. BUSINESS: Shipping sector's emissions could drop as companies seek savings and efficiency

5. BUILDINGS: More property owners concerned with energy efficiency -- report

6. POLICY: U.S. military service brass lead charge for Law of the Sea ratification

7. COAL: 2 utilities stay committed to gasification

8. NEGOTIATIONS: E.U. reaches agreement over energy savings text after months of debate

9. EMISSIONS: European Commission to set tougher CO2 standards for vans

10. NATIONS: Singapore announces national climate change strategy

EnergyWire

TODAY'S EDITION: Friday, June 15, 2012 -- 08:59 AM [Read full edition](#)

1. PIPELINES:

Do increasing oil flows open door to more spills?

HOUSTON -- Drillers are clamoring for more pipelines as crude oil production climbs, in the hope they can find some relief from truck and rail transportation that has increased costs in the North American oil patch. To meet that demand, pipeline companies are boosting the capacity and flow on their pipeline systems, often by hundreds of thousands of extra barrels a day. Enbridge Inc. plans to expand oil flows through pipelines that feed Midwestern refineries by 280,000 barrels per day, and capacity is set to increase on pipelines operated by Kinder Morgan Inc. and Plains All American Pipeline LP. But does adding more crude oil to a pipeline increase the risk of a rupture or spill? Go to story #1

[THIS MORNING'S STORIES](#)

2. AFRICA:

Exxon, Statoil announce massive gas finds off Tanzania coast

3. NATURAL GAS:

N.Y. reaches deal with Chesapeake on lease renewals

4. COURTS:

In Shell case, Obama questions role of U.S. courts in human rights cases

5. TECHNOLOGY:

Fracking without water could be next big thing in drought-prone areas

6. WYOMING:

Regulator resigns after comment that 'greed' motivates critics in Pavillion

7. OIL AND GAS:

N.C. fracking bill clears House

8. BUSINESS:

Shell extends offer to buy Cove Energy, Africa assets

9. OIL AND GAS:

OPEC to maintain production ceiling, will revisit if prices drop

10. PIPELINES:

Canada seeks alternatives to Keystone XL

11. RUSSIA:

Rosneft turns to Exxon Mobil to help frack Siberian play

12. OHIO:

State officials wind down land inventory effort

Brought to you by the Office of General Counsel Law Library